

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kirsten Lundgren,

Petitioner-Appellant,

v.

Polk County Board of Review,

Respondent-Appellee.

ORDER

Docket No. 11-77-0888

Parcel No. 070/05435-001-000

On September 7, 2012, the above captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board under Iowa Code sections 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant, Kirsten Lundgren, was self-represented and requested the appeal proceed without a hearing. The Polk County Board of Review was represented by Assistant County Attorneys Ralph Marasco, Jr., David Hibbard, and Anastasia Hurn. The Appeal Board having reviewed the entire record, and being fully advised, finds:

Findings of Fact

Kirsten Lundgren, owner of a residentially classified property located at 601 East Aurora Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision regarding her 2011 property assessment. The January 1, 2011, assessment is \$127,500, allocated as \$16,700 in land value and \$110,800 in improvements.

The subject property is a brick, one-story, single-family home built in 1956. The improvements include 1286 square feet of above-grade finish; a 912 square-foot basement with 300 square feet of finish; a 180 square-foot wood deck; a 32 square-foot enclosed porch; and a 576 square-foot, detached garage built in 1975. The subject site is 0.163 acres.

Lundgren protested her assessment to the Polk County Board of Review. She contended that

her property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b). She asserted the correct value of the subject property was \$100,000. Lundgren did not request an oral hearing before the Board of Review nor did she offer any evidence.

The Board of Review denied the protest. Lundgren then appealed to this Board reasserting her claim.

Lundgren states the subject property “has been listed for the last eighteen months” and that despite periodic lowering of the list price, it still has not sold. At the suggestion of her real estate agent, her property is now listed for \$100,000. Therefore, she asserts the assessment of her property should not be any higher than the current list price. Lundgren does not provide any type of support for this assertion, such as evidence of sales of comparable properties or any other evidence of the subject property’s market value.

The Board of Review did not offer any additional evidence.

Based upon the foregoing, we find Lundgren has failed to provide sufficient evidence to support a claim of over-assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review, but new or additional evidence may be introduced. § 441.37A(1)(b). The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment*

Appeal Bd., 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value" essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

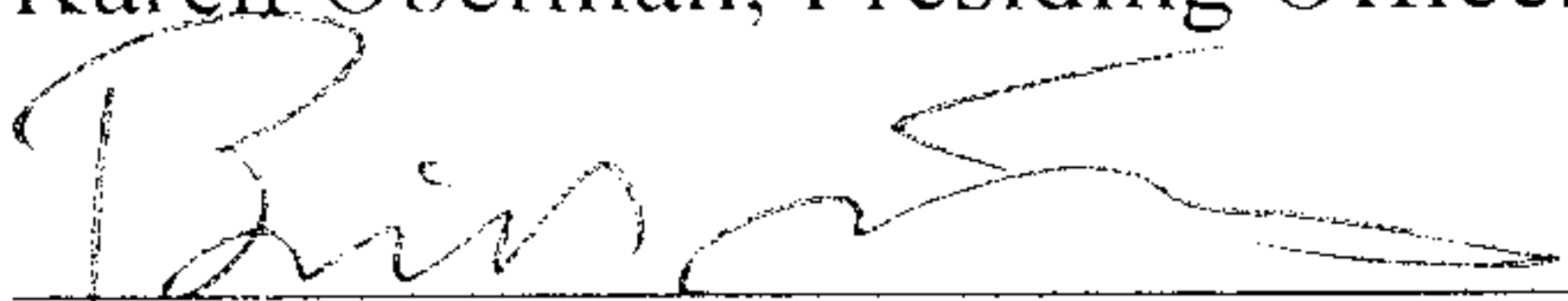
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), the petitioner has the burden of proving the assessment is excessive and establishing the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 276-77 (Iowa 1995). To support a claim of over-assessment, the market value of the subject property must be proven; preferably with adjusted sales of similar properties, although other methods may be considered if sales do not exist. § 441.21(1)(b), (2). Lundgren asserts the subject property is currently listed for sale for \$100,000 and therefore cannot be assessed for more than that amount. Although the listing price of a property may be an indicator of value, it is not an actual transaction. Lundgren did not offer evidence of sales of comparable properties or any other evidence of the market value of the subject property.

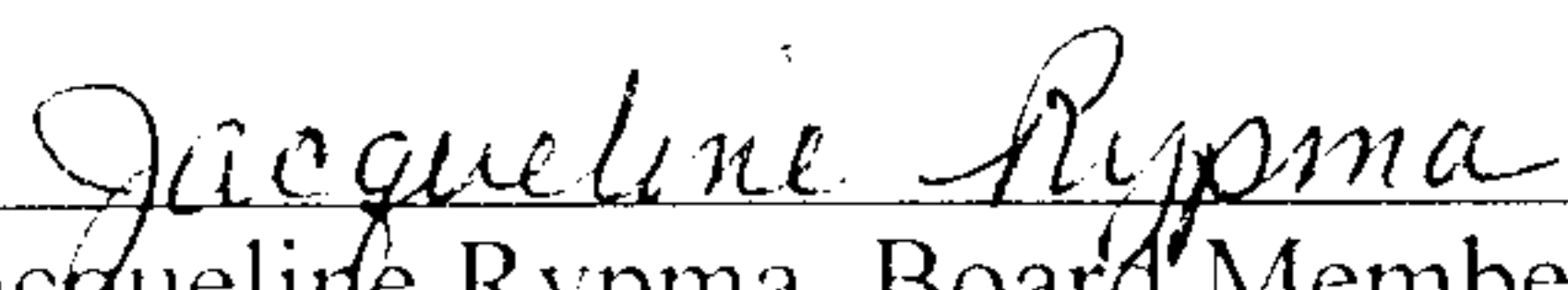
Lundgren failed to satisfy her burden of showing the assessment was excessive and did not establish the subject property's correct value. We therefore affirm the assessment of Kirsten Lundgren's property as determined by the Polk County Board of Review, as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of Kirsten Lundgren's property located at 601 East Aurora Avenue, Des Moines, Iowa, of \$127,500, as of January 1, 2011, set by Polk County Board of Review, is affirmed.

Dated this 4 day of October, 2012.


Karen Oberman, Presiding Officer


Richard Stradley, Board Chair


Jacqueline Rypma, Board Member

Cc:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>10-4</u> , 2012	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	